

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

ALEXIS ROSITANO,)	
)	
Plaintiff,)	
)	Civil Action No. 3:20-cv-00420
v.)	
)	Judge Waverly D. Crenshaw, Jr.
FREIGHTWISE, LLC and RICHARD)	
HOEHN, INDIVIDUALLY,)	Magistrate Judge Barbara D. Holmes
)	
Defendants.)	

**PARTIAL MOTION TO DISMISS SECOND AMENDED COMPLAINT BY
DEFENDANT FREIGHTWISE, LLC**

Pursuant to Federal Rule of Civil Procedure 12(b)(6), Defendant FreightWise, LLC (“FW”), hereby moves this Court for entry of an Order dismissing portions¹ of the Plaintiff’s Second Amended Complaint, specifically Count IV, Count VII, Count VIII, Count X, Count XII, Count XIII, and Count XIV because the Plaintiff has failed to state a claim for those counts.

In support of this Motion, FW has filed herewith the following:

1. a Memorandum of Law in Support of this Motion;
2. attachments containing copies of eleven (11) unreported cases in support of the Motion, as follows:
 - a. *Donnell v. Kohler Co.*, 2005 U.S. Dist. LEXIS 29816 (W.D. Tenn. Nov. 10 2005);

¹ To the extent necessary to comply with the Local Rules, Defendant FreightWise requests permission from

- b. *Horne v. loandepot.com, LLC*, 2018 U.S. Dist. LEXIS 60771 (M.D. Tenn. Apr. 10, 2018);
- c. *Fonseca v. Golden Living Ctr.*, 2010 U.S. Dist. LEXIS 81734 (E.D. Tenn. Aug. 10, 2010);
- d. *Bellomy v. Autozone, Inc.*, 2009 Tenn. App. LEXIS 792 (Tenn. Ct. App. Nov. 24, 2009);
- e. *Seay v. Fortune Plastics, Inc.*, 2012 U.S. Dist. LEXIS 23644 (W.D. Tenn. Feb. 24, 2012);
- f. *Bryant v. Skyline Properties, Inc.*, 2006 U.S. Dist. LEXIS 11623 (N.D. Tex. Mar. 20, 2006);
- g. *Sawyer v. Memphis Educ. Ass'n*, 2006 Tenn. App. LEXIS 729 (Tenn. Ct. App. Nov. 14, 2006);
- h. *Rim v. Lab. Mgmt. Consultants, Inc.*, 2019 U.S. Dist. LEXIS 195945 (M.D. Tenn. Nov. 12, 2019);
- i. *Colbert & Winstead, PC v. AIG Fin. Advisors, Inc.*, 2008 U.S. Dist. LEXIS 53179 (M.D. Tenn. July 8, 2008);
- j. *Werlein v. Brink's Home Sec., Inc.*, 2005 U.S. Dist. LEXIS 35785 (M.D. Tenn. Dec. 13, 2005); and
- k. *Nettles v. Hotel Peabody, G.P.*, 2010 U.S. Dist. LEXIS 130731 (W.D. Tenn. Dec. 8, 2010).

Respectfully submitted,

s/ Charles M. Cain, II

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CERTIFICATE OF SERVICE

I hereby certify that on this 31st day of July, 2020, a copy of the foregoing ***Partial Motion to Dismiss Second Amended Complaint*** was served through the Court's electronic filing system and by U.S. Mail First Class, post-prepaid, to the following:

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